

**J. PETER STAPLES, OSB No. 79404**

Email: pete@chernofflaw.com

**CHERNOFF, VILHAUER, MCCLUNG & STENZEL, LLP**

1600 ODS Tower

601 SW Second Avenue

Portland, OR 97204-3157

Telephone: (503) 227-5631

Facsimile: (503) 228-4373

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

**COLLEGENET, INC.,**  
a Delaware corporation

Case No. 3:06 CV 00663 PK

Plaintiff,  
v.

**MEMORANDUM IN SUPPORT OF  
A.C.N., INC.'S MOTION FOR  
EXTENSION OF TIME**

**A.C.N., INC., d/b/a ANYCOLLEGE.NET,**  
a Minnesota corporation

**Trademark Case**

Defendant.

This is an action for trademark infringement and unfair competition, including claims of false designation of origin.

Upon engagement, A.C.N., Inc.'s ("ACN") undersigned attorney contacted Michael Zachary, one of the attorneys for plaintiff, to seek an extension of time to answer or otherwise respond to the Complaint. In the course of that conversation, counsel discussed plaintiff's claims and jointly determined that there may be a way to resolve a false designation claim. Counsel spoke over the telephone and corresponded by email. Counsel for CollegeNET suggested certain

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assurances but cautioned that the proposal had not been approved by his client. Counsel for ACN consulted with ACN and provided certain written assurances on behalf of ACN. These activities directed toward settlement diverted defendant's efforts away from preparing a response to the Complaint.

After providing the assurances, defendant's counsel again inquired about an extension. Plaintiff's counsel was unable to respond to defendant's request in a time frame which provided defendant with ample time to fully respond to the Complaint. A copy of the most recent email exchange between counsel for defendant and plaintiff is attached as Exhibit 1 to the Declaration of J. Peter Staples. The exhibit confirms that counsel have conferred, that defendant directed its efforts toward settlement of an aspect of the case and that plaintiff was unable to respond in sufficient time to allow defendant to prepare a well-considered response.

Dated May 25, 2006.

Respectfully submitted,

CHERNOFF, VILHAUER,  
McCLUNG & STENZEL, L.L.P.

/s/ J. Peter Staples  
J. Peter Staples, OSB No. 79404  
Of Attorneys for Defendant